



Queensland

Work Health and Safety Act 2011

Current as at 1 March 2023

Part 3 Incident notification

35 What is a *notifiable incident*

In this Act, *notifiable incident* means—

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Authorised by the Parliamentary Counsel

- (a) the death of a person; or
- (b) a serious injury or illness of a person; or
- (c) a dangerous incident.

36 What is a *serious injury or illness*

In this part, *serious injury or illness* of a person means an injury or illness requiring the person to have—

- (a) immediate treatment as an in-patient in a hospital; or
- (b) immediate treatment for—
 - (i) the amputation of any part of his or her body; or
 - (ii) a serious head injury; or
 - (iii) a serious eye injury; or
 - (iv) a serious burn; or
 - (v) the separation of his or her skin from an underlying tissue (for example, degloving or scalping); or
 - (vi) a spinal injury; or
 - (vii) the loss of a bodily function; or
 - (viii) serious lacerations; or
- (c) medical treatment within 48 hours of exposure to a substance;

and includes any other injury or illness prescribed under a regulation but does not include an illness or injury of a prescribed kind.

37 What is a *dangerous incident*

In this part, a *dangerous incident* means an incident in relation to a workplace that exposes a worker or any other person to a serious risk to a person's health or safety emanating from an immediate or imminent exposure to—

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- (a) an uncontrolled escape, spillage or leakage of a substance; or
- (b) an uncontrolled implosion, explosion or fire; or
- (c) an uncontrolled escape of gas or steam; or
- (d) an uncontrolled escape of a pressurised substance; or
- (e) electric shock; or
- (f) the fall or release from a height of any plant, substance or thing; or
- (g) the collapse, overturning, failure or malfunction of, or damage to, any plant that is required to be authorised for use under a regulation; or
- (h) the collapse or partial collapse of a structure; or
- (i) the collapse or failure of an excavation or of any shoring supporting an excavation; or
- (j) the inrush of water, mud or gas in workings, in an underground excavation or tunnel; or
- (k) the interruption of the main system of ventilation in an underground excavation or tunnel; or
- (l) any other event prescribed under a regulation; but does not include an incident of a prescribed kind.

38 Duty to notify of notifiable incidents

- (1) A person who conducts a business or undertaking must ensure that the regulator is notified immediately after becoming aware that a notifiable incident arising out of the conduct of the business or undertaking has occurred.

Maximum penalty—100 penalty units.

- (2) The notice must be given as required under this section and by the fastest possible means.
- (3) The notice must be given—
 - (a) by telephone; or

- (b) in writing.

Example—

The written notice can be given by facsimile, email or other electronic means.

- (4) A person giving notice by telephone must—
- (a) give the details of the incident requested by the regulator; and
 - (b) if required by the regulator, give a written notice of the incident within 48 hours of that requirement being made.
- (5) A written notice must be in a form, or contain the details, approved by the regulator.
- (6) If the regulator receives a notice by telephone and a written notice is not required, the regulator must give the person conducting the business or undertaking—
- (a) details of the information received; or
 - (b) an acknowledgement of receiving the notice.
- (7) A person conducting a business or undertaking must keep a record of each notifiable incident for at least 5 years from the day that notice of the incident is given to the regulator under this section.

Maximum penalty—50 penalty units.

39 Duty to preserve incident sites

- (1) The person with management or control of a workplace at which a notifiable incident has occurred must ensure so far as is reasonably practicable, that the site where the incident occurred is not disturbed until an inspector arrives at the site or any earlier time that an inspector directs.

Maximum penalty—100 penalty units.

- (2) In subsection (1) a reference to a site includes any plant, substance, structure or thing associated with the notifiable incident.

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- (3) Subsection (1) does not prevent any action—
- (a) to assist an injured person; or
 - (b) to remove a deceased person; or
 - (c) that is essential to make the site safe or to minimise the risk of a further notifiable incident; or
 - (d) that is associated with a police investigation; or
 - (e) for which an inspector or the regulator has given permission.

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